

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	
	:	
-v-	:	20-CR-19 (PAE)
	:	
JUAN CARLOS ARACENA DE JESUS,	:	<u>ORDER</u>
	:	
Defendant.	:	
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PAUL A. ENGELMAYER, United States District Judge:

The conference scheduled for **May 15, 2020 at 11:00 a.m.**, is to occur as a video/teleconference using the CourtCall. As requested, defense counsel will be given an opportunity to speak with the Defendant by telephone for fifteen minutes before the sentencing proceeding begins; defense counsel should make sure to answer the telephone number that was previously provided to Chambers at that time. (Chambers will provide counsel with a telephone number at which the interpreter can be reached at the time of the pre-conference; it is counsel's responsibility to conference the interpreter in with the Defendant for the pre-conference.)

To optimize the quality of the video feed, the Court, the Defendant, and defense counsel will appear by video for the proceeding; all others will participate by telephone. Due to the limited capacity of the CourtCall system, only one counsel per party may participate. Co-counsel, members of the press, and the public may access the audio feed of the conference by calling 855-268-7844 and using access code 32091812# and PIN 9921299#.

In advance of the conference, Chambers will email the parties with further information on how to access the conference. Those participating by video will be provided a link to be pasted into their browser. **The link is non-transferrable and can be used by only one person;**

further, it should be used **only** at the time of the conference because using it earlier could result in disruptions to other proceedings.

To optimize use of the CourtCall technology, all those participating by video should:

1. Use the most recent version of Firefox, Chrome, or Safari as the web browser. Do **not** use Internet Explorer.
2. Use hard-wired internet or WiFi. If using WiFi, the device should be positioned as close to the Wi-Fi router as possible to ensure a strong signal. (Weak signals may cause delays or dropped feeds.)
3. Minimize the number of others using the same WiFi router during the conference.

Further, all participants must identify themselves every time they speak, spell any proper names for the court reporter, and take care not to interrupt or speak over one another. Finally, all of those accessing the conference — whether in listen-only mode or otherwise — are reminded that recording or rebroadcasting of the proceeding is prohibited by law.

If CourtCall does not work well enough and the Court decides to transition to its teleconference line, counsel should call **888-363-4749** and use access code 468-4906#. (Members of the press and public may call the same number, but will not be permitted to speak during the conference.) In that event, and in accordance with the Court's Emergency Individual Rules and Practices in Light of COVID-19, available at https://www.nysd.uscourts.gov/sites/default/files/practice_documents/PAE%20Engelmayer%20COVID-19%20Emergency%20Rules%20and%20Practices.pdf, counsel should adhere to the following rules and guidelines during the hearing:

1. Each party should designate a single lawyer to speak on its behalf (including when noting the appearances of other counsel on the telephone).
2. Counsel should use a landline whenever possible, should use a headset instead of a speakerphone, and must mute themselves whenever they are not speaking to eliminate background noise. In addition, counsel should not use voice-activated systems that do not allow the user to know when someone else is trying to speak at the same time.

3. To facilitate an orderly teleconference and the creation of an accurate transcript, counsel are *required* to identify themselves every time they speak. Counsel should spell any proper names for the court reporter. Counsel should also take special care not to interrupt or speak over one another.
4. If there is a beep or chime indicating that a new caller has joined while counsel is speaking, counsel should pause to allow the Court to ascertain the identity of the new participant and confirm that the court reporter has not been dropped from the call.

If possible, defense counsel shall discuss the attached Waiver of Right to be Present at Criminal Proceeding with the Defendant prior to the proceeding. If the Defendant consents, and is able to sign the form, defense counsel shall file the executed form **at least 24 hours prior to the proceeding**. In the event the Defendant consents, but counsel is unable to obtain the Defendant's physical signature on the form, the Court will conduct an inquiry at the outset of the proceeding to determine whether it is appropriate for the Court to add the Defendant's signature to the form.

Finally, as the parties are aware, there is currently no public record of the Defendant's plea or the scheduled sentencing, as the Court delayed docketing and sealed all records relating to the plea. Unless there would be a basis to seal the courtroom if the proceeding were occurring in the courthouse, however, the Court is inclined to believe that the public right of access to judicial proceedings requires that this scheduling order be publicly docketed. To that end, the Court intends to docket this Order the day before the proceeding. If either party objects, and believes that there is a basis to keep this Order under seal and that the fact of the proceeding should not be made public, it shall file a letter motion to that effect by **3:00 p.m.** two days before the proceeding. Relatedly, counsel should confer in advance of sentencing with respect to what portions of the record can be unsealed. **In advance of sentencing**, the Government should e-mail to the Court a proposed unsealing order stating, with specificity, what should be unsealed.

SO ORDERED.

Dated: May 15, 2020
New York, New York

A handwritten signature in blue ink that reads "Paul A. Engelmayer". The signature is written in a cursive, flowing style.

Paul A. Engelmayer
United States District Judge